IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 5TH SEPTEMBER 2007 / 14TH BHADRA 1929

Bail Appl..No. 5187 of 2007()

CRIME NO. 724/07 OF KOTHAMANGALAM POLICE STATION

PETITIONERS/ACCUSED 1 TO 4:

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1. SUBRAMANIAN @ CHAMI, AGED 29 YEARS,
S/O. KUTTAN, PANAGADAN HOUSE, MALIPPARA P.O.,
NADODIPALAM.

2. BINU @ PAPPI, AGED 27 YEARS,
S/O.THOMAS, KOYIKKAKKUDIYIL HOUSE,
MALIPPARA P.O., NADODIPALAM.

3. BINU @ KOYAN, AGED 27 YEARS,
S/O. GOPI, CHERUVELIKUDY HOUSE, MALIPPARA P.O.,
NADODIPALAM.

4. SINU @ POLU, AGED 20 YEARS,
S/O. ELDHOSE, KUZHIVELIKUDI HOUSE, MALIPPARA P.O.,
NADODIPALAM.

BY ADV. SRI.PEEYUS A.KOTTAM

RESPONDENTS: COMPLAINANT:

STATE OF KERALA,
REP. BY SUB INSPECTOR OF POLICE, KOTHAMANGALAM
POLICE STATION, REP. BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM (INVESTIGATING
OFFICER IN CRIME NO.724/2007 OF KOTHAMANGALAM
POLICE STATION).

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 05/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 5187 of 2007

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Dated this the 5th day of September, 2007

O R D E R

Application for anticipatory bail. The petitioners are accused 1 to 4. Altogether there are five accused persons. They face allegations, inter alia, under Sections 308 and 324 I.P.C. Investigation is in progress. The petitioners apprehend imminent arrest.

2. The learned counsel for the petitioners submits that the allegations raised against the petitioners are totally unjustified. The police is succumbing to the influence of the complainant. In respect of an incident which took place on 30.7.2007, two crimes have been registered. Crime No.724 of 2007 against the petitioner and Crime 727 of 2007 against the rival contestants. In that other crime the offence alleged is under Section 326 I.P.C. Only to vex and harass the petitioners and to ensure that they are kept in custody as long a period as possible allegation under Section 308 I.P.C. has been raised. Even at worst the allegation is that in the incident which took place on 30.7.07 the victim was assaulted using a pipe. The injuries

suffered are simple in nature. The learned counsel for the petitioners submits that a total consideration of all inputs must convey to the court that allegation under Section 308 I.P.C. has been pressed into service without bonafides and with transparent purpose of vexing and harassing the petitioners. In these circumstances anticipatory bail may be granted to the petitioners, it is prayed.

3. The learned Prosecutor does not oppose the application. In the facts and circumstances of this case, I am satisfied that this is a fit case where directions under Section 438 Cr.P.C. can be issued in favour of the petitioners, subject to appropriate conditions.

4. In the result:

(1) This application is allowed.

(2) The following directions are issued under Section 438 Cr.P.C.

(a) The petitioners shall surrender before the learned Magistrate on 11.9.2007 at 11 a.m. The learned Magistrate shall release the petitioners on regular bail on condition that they execute bonds for Rs.25,000/- (Rupees twenty five thousand only) each with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(b) The petitioners shall make themselves available for interrogation before the Investigating Officer between 10 a.m. and 1 p.m. on 12.9.07 and 13.9.2007 and thereafter shall appear on all Mondays and Fridays between10 a.m. and 12 noon for a period of two months and subsequently as and when directed by the Investigating Officer in writing to do so.

(d) If the petitioners do not appear before the learned Magistrate as directed in clause (1) above, these directions shall lapse on 11.9.06 and the police shall be at liberty thereafter to arrest the petitioners and deal with them in accordance with law.

(b) If the petitioners were arrested prior to their surrender on 11.9.2006 as directed in clause (1) above, they shall be released on bail on their executing bonds for Rs.25,000/- each without any surety undertaking to appear before the learned Magistrate on 11.9.2007.

(R. BASANT)
Judge

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